IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

THURSDAY, THE 1ST MARCH 2007 / 10TH PHALGUNA 1928

WP(C).No. 13588 of 2005(P)

PETITIONER:

JOY VARGHESE,
MANAGING PARTNER, M/S.CHINA CRACKERS,
CHOVVA, KANNUR DISTRICT, RESIDING AT
KONNACKAL HOUSE, CHEMBANTHOTTY P.O.,
SREEKANDAPURAM, KANNUR DISTRICT.

BY ADV. SRI.SERGI JOSEPH THOMAS

RESPONDENTS:

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1. THE ADDITIONAL DISTRICT MAGISTRATE,
KANNUR.

2. THE SUPERINTENDENT OF POLICE,
KANNUR.

3. THE COMMISSIONER OF LAND REVENUE,
THIRUVANANTHAPURAM.

4. STATE OF KERALA, REPRESENTED BY
THE SECRETARY TO THE GOVERNMENT,
HOME DEPARTMENT, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM.

BY GOVERNMENT PLEADER SMT. SMITHA

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 01/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 TRUE COPY OF REPORT DATED 11.2.2004 ISSUED BY THE TAHSILDAR, KANNUR TO THE DISTRICT COLLECTOR, KANNUR.

EXT.P2 TRUE COPY OF THE REPORT OF THE ASST. DIVISIONAL OFFICER, KANNUR DATED 6.3.2004 TO THE DISTRICT COLLECTOR, KANNUR.

EXT.P3 TRUE COPY OF THE PROCEEDINGS NO. K.DIS. 63861/2003/D4 OF THE FIRST RESPONDENT DATED 6.3.2004

EXT.P4 TRUE COPY OF THE COVERING LETTER NO. CAN/12 DATED 23.1.2003 AND SKETCH SHOWING THE PROPOSED SHOP BUILDING WHERE THE BUSINESS OF THE PETITIONER.

EXT.P5 TRUE COPY OF THE JUDGMENT IN W.A.NO. 1038 OF 2004 DATED 18.10.2004

EXT.P6 TRUE COPY OF APPEAL FILED BY THE PETITIONER BEFORE THE LAND REVENUE COMMISSIONER DATED 15.11.2004

EXT.P7 TRUE COPY OF THE PROCEEDINGS DATED 31.3.2005 OF THE THIRD RESPONDENT.

EXT.P8 TRUE COPY OF THE COMMUNICATION NO. 25617/F1/03/HOME DATED 27.6.2003 SUBMITTED BY THE THIRD RESPONDENT.

EXT.P9 TRUE COPY OF THE JUDGMENT IN WPC 11423 OF 2005 DATED 5.4.2005

RESPONDENTS' EXHIBITS: NIL

TRUE COPY

P.S. TO JUDGE.

C.N.RAMACHANDRAN NAIR,J.

W.P.C. NO. 13588 OF 2005

Dated this the 1st day of March, 2007

JUDGMENT

Petitioner is challenging Exts. P3 and P7 orders by which the ADM and the Land Revenue Commissioner declined permission to the petitioner to start a shop for storage and sale of crackers. It is seen from the orders that licence is declined on account of objection by the police which again is based on the fact that neighbouring shop owners have objected and that the location of the shop is 12 metres near to the railway line. Obviously in view of the objection raised by the police, petitioner is not entitled to get licence for the premises for which he has applied for licence. However, if the petitioner is able to locate a suitable place which is away from objectionable site and other buildings owners, petitioner can make a fresh application in respect of that new premises and if any such application is filed there will be direction to respondents to consider the same and pass fresh orders with reference to new site. Police will certainly conduct fresh enquiry with reference to the new site and forward report to the ADM for issue

of fresh licence without delay. Since orders issued pertain existing site, the same should not influence the respondents, while considering the fresh application in respect of a new site.

W.P. is disposed of as above.

(C.N.RAMACHANDRAN NAIR)
Judge